IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1514 OF 2006

Shri Milan Banerjee, .. Applicant
Vs
M/s Auro Laboratories Ltd & ors .. Respondents

Mr Ramson Dias, for the applicant (absent).
Mr.Ashok Bhatia, for respondent no.1.
Ms.M.H.Mhatre, APP for the respondent-State.

WITH

CRIMINAL APPLICATION NO 1907 of 2006

Shri Milan Banerjee, .. Applicant
Vs
M/s Auro Laboratories Ltd and ors.. Respondents

Mr Ramson Dias, for the applicant (absent).
Mr.Ashok Bhatia, for respondent no.1.
Ms.M.M.Deshmukh, APP for the respondent-State.

WITH

CRIMINAL APPLICATION NO 1906 of 2006

Shri Milan Banerjee, .. Applicant
Vs
M/s Auro Laboratories Ltd and ors.. Respondents

Mr Ramson Dias, for the applicant (absent).
Mr.Ashok Bhatia, for respondent no.1.
Ms.Usha Kejriwal, APP for the respondent-State.

WITH

CRIMINAL APPLICATION NOS 1905 of 2006

Shri Milan Banerjee, .. Applicant
Vs
M/s Auro Laboratories Ltd and ors.. Respondents

Mr Ramson Dias, for the applicant (absent).
Mr.Ashok Bhatia, for respondent no.1.
Mr,P.A.Pol, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 5th JUNE, 2006

P.C.:

1. None appears for the applicant in all the four applications. Heard the learned counsel for the respondents.

2. In all these applications, the applicant and the respondents are the same. The applicant has challenged the orders dated 28.3.2006 passed by the learned Addl.Sessions Judge in the Criminal Revision Applications filed by the applicant challenging the order of issue of process passed by the learned Metropolitan Magistrate, 30th Court, Kurla, Mumbai in four different complaints filed under section 138 r/w 141 of the Negotiable Instruments Act, 1881. Mr.Ashok Bhatia, learned counsel who has instructions to appear for respondent no.1, states that a plea has already been recorded and, therefore, the instant proceedings challenging the issue of process have become infructuous.

3. I perused the impugned order and the other material placed on record. The principle contention advanced before the Court below was that the applicant was not in-charge and responsible for conduct of business of the accused-company and was not looking after day-to-day affairs thereof. A heavy reliance

was placed on the judgment of the Apex Court in S.M.S.Pharmaceuticals Ltd Vs Neeta Bhalla and anr-2005 AIR SCW 4740 to contend that unless a person is in-charge of and responsible for conduct of business of the company at the relevant time, he cannot be liable to be roped in as an accused in a case under section 138 of the Negotiable Instruments Act. This judgment is of no avail to the applicant in view of the peculiar facts disclosed in the complaint. In the present case, there is a categoric averment in the complaint that the applicant was in-charge and responsible for conduct of business of the accused-company and he was looking after day-to-day affairs thereof. Even the role played by the applicant during the transaction in question has also been spelt out in the complaint. Prima facie, it appears that the cheques in question were issued in discharge of liability and while so doing some other documents were also signed by the applicant. In view of this, at this stage, it cannot be said that he was not responsible for conduct of the business of the accused-company. In the circumstances, I am not inclined to interfere with the impugned orders passed in all the four applications. The applications, therefore, fail and are rejected as such.

(D.B.BHOSALE,J.)